MONTANA LEGISLATIVE HISTORY

Chapter 339 1989

Bill H 407 S _____ Original bill & history ✓ C

H. Committee on State Admin

Hearing Date(s) 2/02 ___C

ex 2/07 ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on State Admin

Hearing Date(s) 3/13 ___C

ex 3/13 ___C

_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

3/15	SIGNED BY PRESIDENT		
3/15	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 157 EFFECTIVE DATE: 3/20/89		

HB 406 INTRODUCED BY GOULD, ET AL.
DEFINE "BROKER" OF MOTOR VEHICLES

1/25	INTRODUCED		
1/26	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/02	HEARING		
2/03	COMMITTEE REPORT--BILL PASSED		
2/06	2ND READING PASSED	97	0
2/08	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
2/09	REFERRED TO BUSINESS & INDUSTRY		
3/15	HEARING		
3/15	COMMITTEE REPORT--BILL CONCURRED		
3/17	2ND READING CONCURRED	47	0
3/20	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/23	SIGNED BY SPEAKER		
3/27	SIGNED BY PRESIDENT		
3/28	TRANSMITTED TO GOVERNOR		
3/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 393 EFFECTIVE DATE: 10/01/89		

HB 407 INTRODUCED BY ADDY, ET AL.
REVISE FILING OF CAMPAIGN REPORTS
BY REQUEST OF COMMISSIONER OF POLITICAL PRACTICES

1/25	INTRODUCED		
1/26	REFERRED TO STATE ADMINISTRATION		
1/27	FISCAL NOTE REQUESTED		
2/02	HEARING		
2/03	FISCAL NOTE RECEIVED		
2/07	FISCAL NOTE PRINTED		
2/07	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	59	34
2/14	3RD READING PASSED	63	32
	TRANSMITTED TO SENATE		
2/15	REFERRED TO STATE ADMINISTRATION		
3/13	HEARING		
3/13	COMMITTEE REPORT--BILL CONCURRED		
3/14	2ND READING CONCURRED	49	0
3/16	3RD READING CONCURRED	30	18
	RETURNED TO HOUSE		
3/21	SIGNED BY SPEAKER		
3/22	SIGNED BY PRESIDENT		
3/22	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 339 EFFECTIVE DATE: 10/01/89		

HB 408 INTRODUCED BY SIMON, ET AL.
PROVIDE THAT CERTAIN LIQUOR REVENUE BE DEPOSITED
IN ENTERPRISE FUND

HOUSE BILL NO. 407

INTRODUCED BY ADDY, VINCENT

BY REQUEST OF THE COMMISSIONER OF POLITICAL PRACTICES

IN THE HOUSE

JANUARY 25, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 26, 1989	FIRST READING.
FEBRUARY 7, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 8, 1989	PRINTING REPORT.
FEBRUARY 11, 1989	SECOND READING, DO PASS.
FEBRUARY 13, 1989	ENGROSSING REPORT.
FEBRUARY 14, 1989	THIRD READING, PASSED. AYES, 63; NOES, 32.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 13, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 14, 1989	SECOND READING, CONCURRED IN.
MARCH 16, 1989	THIRD READING, CONCURRED IN. AYES, 30; NOES, 18.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 17, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 407

INTRODUCED BY Vincent

BY REQUEST OF THE COMMISSIONER OF POLITICAL PRACTICES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITION OF "CANDIDATE"; REQUIRING REPORTS FROM STATEWIDE CANDIDATES AND POLITICAL COMMITTEES IN YEARS PRIOR TO AN ELECTION YEAR; AND AMENDING SECTIONS 13-1-101 AND 13-37-226, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(2) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination or appointment as a candidate for public office as required by law;

(b) for the purposes of chapters 35, 36, or 37, an individual who has ~~publicly announced his intention to seek nomination or election to public office by write in vote and who has received a contribution or made an expenditure or has given an authorization to another person to receive a contribution or make an expenditure for the purpose of supporting his nomination or election.~~ solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on his behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; and

(c) an officeholder who is the subject of a recall election.

(3) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate

or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residence for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees, so long as such organization is not a primary political committee; or

(iv) filing fees paid by the candidate.

(4) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time and/or purpose.

(5) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(6) "Elector" means an individual qualified and

registered to vote under state law.

(7) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (3);

(ii) payments by a candidate for his filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for himself and his family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees, so long as such organization is not a primary political committee.

(8) "General election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III,

section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1).

(9) "Individual" means a human being.

(10) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35, 36, or 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes an "issue" upon approval by the secretary of state of the form of the petition or referral.

(11) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (2) of this section.

(12) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee

organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(13) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(14) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for such nominations is set on the same date for all similar subdivisions in the state.

(15) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(16) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(17) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in

conjunction with a statutorily scheduled election.

(18) "Voting machine or device" means any equipment used to record, tabulate, or in any manner process the vote of an elector."

Section 2. Section 13-37-226, MCA, is amended to read:

"**13-37-226. Time for filing reports.** (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees which are specifically organized to support or oppose a particular statewide candidate or issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year the candidate expects to be on the ballot or an issue is expected to be on the ballot;

~~(a)~~(b) on the 10th day of March and September in each year that an election is to be held and on the 15th and 5th days next preceding the date on which an election is held and within 24 hours after receiving a contribution of $500 or more if received between the 10th day before and the day of the election;

~~(b)~~(c) not more than 20 days after the date of the election; and

~~(c)~~(d) on the 10th day of March and September of each year following an election until the candidate or political

committee files a closing report as specified in 13-37-228(3).

(2) Candidates for a state district office, including but not limited to candidates for the legislature, public service commission, or district court judge, and political committees which are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

(a) on the 10th day next preceding the date on which an election is held and within 24 hours after receiving a contribution of $100 or more if received between the 15th day before and the day of the election;

(b) not more than 20 days after the date of the election; and

(c) whenever a candidate or political committee files his or its closing report as specified in 13-37-228(3).

(3) Candidates for any other public office and political committees which are specifically organized to support or oppose a particular local issue shall be required to file the reports specified in subsection (2) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds $500, except as provided in 13-37-206.

(4) For the purposes of this subsection, a committee

which is not specifically organized to support or oppose a particular candidate or ballot issue and which receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file reports:

(a) on the 10th day next preceding the date of an election in which it participates by making an expenditure;

(b) not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a closing report at the close of each calendar year, on a date to be prescribed by the commissioner.

(5) The commissioner may promulgate rules regarding the extent to which organizations that are not primary political committees but are incidental political committees shall report their politically related activities in accordance with this chapter.

(6) All reports required by this section shall be complete as of the fifth day before the date of filing as specified in 13-37-225(2) and subsections (1) through (5) of this section."

NEW SECTION. **Section 3. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of

[this act].

-End-

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB407, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act clarifying the definition of "candidate"; requiring reports from statewide candidates and political committees in years prior to an election year; and amending Sections 13-1-101 and 13-37-226, MCA.

ASSUMPTIONS:

1. Based on the 1988 election cycle, as many as 16 statewide candidates would be required to file quarterly reports in a year or years preceding the election year when they expect to be on the ballot.
2. At least 16 additional reports would be filed with the Commissioner of Political Practices in any year preceding an election year.
3. The filing of additional reports would have a negligible impact on staff and resources of the Office of the Commissioner of Political Practices.

FISCAL IMPACT: None

Ray Shackleford 2/2/89

RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Kelly Addy Feb 6 1989

KELLY ADDY, PRIMARY SPONSOR DATE

Fiscal Note for HB407, as introduced

HB 407

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on March 13, 1989, at 9:00 a.m., Room 331, Capitol.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator Esther Bengtson, Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Paul Rapp-Svrcek, Senator Eleanor Vaughn

Members Excused: Senator Tom Rasmussen

Members Absent: None

Staff Present: Eddye McClure

HEARING ON HB 1

Presentation and Opening Statement by Sponsor:

Representative Jack Ramirez stated this bill was recommended by the revenue oversight committee, and the purpose of the bill is to bring the powers of the revenue oversight committee in line with those of the administrative code committee. He indicated the administrative code committee has a number of powers to deal with administrative regulations, but the revenue oversight committee, when it was created, was given some lesser powers, with respect to the Department of Revenue, and was only permitted to review the rules and regulations of the Department of Revenue with respect to whether it complied with certain procedural requirements. He reported the committee has been frustrated, over the years, because it feels it has had some difficulty dealing with the Revenue Department, and feels it needs to have the same tools the administrative code committee has, with respect to all other departments. He indicated that, with the new administrator, he hopes they will not need to use any of these, that very seldom are they used, but noted it is something that needs to be in the legislative arsenal, just in case.

Representative Ramirez stated he can take the committee through the bill, noting it parallels what the administrative

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

None.

Chairman Farrell announced the hearing on HB43 as closed.

DISPOSITION OF HB 43

Discussion:

Senator Harding offered a motion that HB43 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB43 be concurred in.

HEARING ON HB 407

Presentation and Opening Statement by Sponsor:

Representative Kelly Addy indicated this bill will speed up the time at which a state-wide political candidate would have to begin recording contributions and expenditures, and that is all it does. He pointed out that, the way the law is presently written, a candidate can begin to collect, and spend, but does not need to begin reporting until they declare themselves a candidate for state-wide office. He noted that, at that point, reporting requirements are imposed.

Representative Addy reported that, under HB407, this would be speeded up to the point when they begin accepting and receiving political contributions for state-wide office. He indicated, if an individual is acting like a candidate, if they are taking money like a candidate, and if they are spending money like a candidate, they should report money like a candidate. He stated this has turned out to be a loop hole in the campaign reporting laws because, under the present law, they can raise money, literally, for years, before having to tell anyone who is behind them, or where they are headed with it. He indicated that being a candidate for political office is something that is inherently touched with public interest, and he thinks people are entitled to know who they stand for, and what they stand for, when they begin accepting money for

the purpose of running for political office, adding that he also thinks it matches legal theory, political theory, and will be a step forward for our laws.

List of Testifying Proponents and What Group they Represent:

Mike Cooney, Secretary of State
C. B. Pearson, Common Cause/Montana
Margaret Davis, League of Women Voters
Dolores Colburg, Commissioner of Political Practices

Testimony:

Mr. Cooney stated he is here to testify in support of HB407, that HB407 will improve the campaign finance disclosure laws, and make the process more open. He indicated that, in a nutshell, it closes the loop holes that enables candidates from making financial disclosures until just prior to the primary election. He stated that, in an election cycle, candidates for public office are not required to file a campaign financial statement until March, before the primary, noting that, as we know, several candidates begin running for public office months, or years, prior to that date.

Mr. Cooney reported that, under current law, they are able to collect campaign contributions without disclosing the name of contributors, or the amounts of contributions, until many months later, indicating that a major loop hole exists in the campaign practices law that permits this to happen. He stated that HB407 changes the campaign finances and practices law to require that candidates begin making financial disclosure statements shortly after they either receive, or spend money on their campaign, and that, thereafter, candidates would have to make their financial disclosure statements on a quarterly basis, until the election year begins.

Mr. Cooney indicated that Montanans deserve to know how campaigns are being supported, and he thinks this bill is necessary for good government, so that concerned citizens of this state can be informed in a timely manner. He further indicated this closes the loop hole, and avoids the appearance of impropriety in elections, adding that, the more we can make campaign financing more open and fair, the more likely citizens will be willing to participate in elections, and the greater the participation in the election process, the more responsive our government becomes to the will of the people.

Mr. Cooney reported that what brought this to his attention was, early in his campaign, he realized this was something he

could do, when he was running for Secretary of State. He noted he could begin collecting campaign contributions, even though he knew he was a candidate, but had not formally filed a declaration, or had not filed his intent in the Secretary of State's office. He indicated he was able to go ahead and collect and expend money and, acting like a candidate, he could do everything that candidates do, except he did not have to report that money until right after he filed for office. He pointed out that some candidates can go for several, three to two years, of acting like a candidate, running a campaign, financing a campaign, collecting monies, and they don't have to file that report until after they actually file their candidacy. He indicated this loop hole exists, he does not think it is healthy, and this would help clean it up, a lot, adding that he made this an issue during his campaign, and he thinks the response he received, during the campaign, on this issue was overwhelming supportive. He added that he does not remember how many newspapers editorialized in favor of it, but that he did not go anywhere, did not appear on any talk show, or go before any editorial board where they did not say "This is something that is needed."

Mr. Cooney stated he does not think this is a partisan issue, that this is a good government issue, and he would hope the committee gives this bill a do pass recommendation, and move it swiftly through the process.

Testimony:

Mr. Pearson's written testimony is attached as Exhibit 1.

Testimony:

Ms. Davis' written testimony is attached as Exhibit 2. She indicated this bill is aimed at the activities of state-wide candidates and, as the committee will note from the fiscal note, there is no adverse impact on the office of the Commissioner of Political Practices, who has indicated their office could accommodate this change in the law. She stated the League of Women Voters urges a do pass recommendation for HB407.

Testimony:

Ms. Colburg noted it may come as no surprise that she supports this bill, since it was introduced at her request. She indicated that others have testified as to the impact of the

bill, and that it would require, as has been said, for those people who start behaving like candidates, walking like candidates, talking like candidates, to start reporting as candidates. She reported they had a number of people who started, very systematically, raising money in the months, and even years, prior to the 1988 election but that, under current law, they were not required to report. She indicated this seemed to be a puzzlement to the press, on the one hand, and to many people who made inquiries in her office who asked, if these people are raising money, and it is obvious they are doing it for a campaign, most of whom have publicly announced their intentions in the press, why can't they report, or why are they excluded from reporting. She indicated her answer was that, under the current laws, those people did not have to report. She added that some of them did voluntarily, in January of 1988, that they acceded to the press that it be done, although they did not have to.

Ms. Colburg indicated she thinks there is another bill that carries out the intent of the act to provide full disclosure of candidates who are running for office, and she hopes the committee will support it.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

Q. Senator Rapp-Svrcek indicated he notes, in the bill, that the person would have to report, whether or not the office for which the individual would seek nomination or election is known, and asked Ms. Colburg if a person could simply say they were a candidate, but would not have to say for what, if they could say they are raising money, but have not decided what they are going to spend it on, yet.

A. Ms. Colburg responded that, as the bill reads, yes, that, whether or not they have declared absolutely what office for which they are running, they still have to report. She indicated that, in practice, she thinks that, when they start very systematically raising money, sending out solicitation letters, having people organized on their behalf to make solicitation, 99.9% of these people know exactly what office they are running for. She noted she does not really think it will be a problem but, for that minuscule group that may be raising money, but does not

wish, yet, to declare for what office, they simply show themselves as a candidate for future office.

Q. Senator Harding indicated that, presently, they file a petition, and that she would have no problem, if they did it after a person announced, noting that many did announce early. She asked, however, how are they going to monitor someone who has not announced in the press, and how are they going to get information to those people, and how is that going to evolve.

A. Ms. Colburg responded that, since this bill applies only to state-wide candidates, she thinks the instances are reduced to a much lesser number than if it applied to others. She indicated that, secondly, any time anyone starts, in a very systematic, even aggressive manner, to raise funds for a future campaign, it is no secret to anybody, noting it is amazing how quickly the word gets around. She reported that, of the 16 candidates who were raising significant amounts of money prior to the 1988 election year, only one of those candidates had started raising a great amount of money without announcing his intentions, noting that was the late Jim Waltermier. She indicated he began raising money as early as June of 1985, 3 1/2 years before the election, but that everybody knew he was raising money because, if they start very systematically sending out letters, or making solicitations, or both, it is no secret, that the word gets around, even if the person has not publicly announced. She stated she would think there would be virtually no problem, at all.

Q. Senator Bengtson asked either Representative Addy or Ms. Colburg if they think this would take away a person's ability to determine where their strength is, early on, if they are going to be a state-wide candidate; if they feel that a candidate would be hampered in determining where their strength is. She indicated it would probably deter people from even thinking about state-wide office.

A. Representative Addy responded that he thinks, if a person wants to know where their strength is, they could probably conduct a poll to determine that. He indicated if, by strength, she meant where the money is, and whether they are strong enough to run, he thinks that, once they start accepting money, they are acting like a candidate; they are, de facto, a candidate. He further indicated he thinks that, once they accept a contribution based on the assumption that they will, one day, be a

candidate for state office, from that point forward, they are committed to run.

Q. Senator Bengtson asked if he thinks it might narrow the field.

A. Representative Addy responded he thinks it would narrow the field to those people who realize that their actions are public actions, noting there is a public interest involved in where their money is coming from, and where they are spending their money.

Q. Senator Bengtson asked Ms. Colburg, since they do not have to report until March, if she found there were inaccuracies in the reports, if, as the reports came in, she found fault with them, or if they were accurate and reported, essentially, all of the contributions up to that date.

A. Ms. Colburg responded there is virtually no campaign finance report which comes to the office that is perfect, that there are usually little errors here and there. She noted that none that she has found, in her experience as commissioner, have to do with anybody trying to hide anything, or in any way deceiving anybody. She indicated they are inadvertent errors, that some are merely arithmetic errors. She reported she met, as a matter of course, with all of the announced gubernatorial candidates in December of 1987, prior to the 1988 elections. She indicated she did that for two purposes; that she wanted to apprise them of the kinds of records they should keep, and she wanted to review their record keeping systems to see if they were in compliance with law, and to see where she might be helpful in making some suggestions about how best to keep their records. She further indicated she did that because she was revising the campaign manual, and wanted to get some responses from people. She noted that, when the reports came in, they were supplied to her office, in January, voluntarily, although the candidates did not have to report until March. She indicated there were errors, and omissions, but they wrote letters to the candidates and indicated they did not do this on this page, and had contributions which exceeded the limitations permitted by an individual candidate, and asked them to check their records and make sure it was an error on the report or, if it isn't, to refund the money quickly. She indicated those are the kinds of things they routinely handle, and they are, she is sure, inadvertent errors, that there is no place, in

any way at all, that she has seen anybody trying to hide or conceal contributions, when they ultimately report.

Q. Senator Bengtson asked if this is going to lead to more qualified candidates, better government, and what is going to be the change. She indicated they are going to have all this information made public early on, in the press, the media, and that, three years before they file for office, that person will be a focal point, and all of his or her reporting will become an issue. She indicated she is wondering if it is going to enhance the process, or are they going to have candidates that will become public figures, long before they are ready. She asked if Ms. Colburg thinks it is going to lead to better candidates running for office, or does she think the public is going to be served better.

A. Ms. Colburg responded that she does not know if she can answer that question, as to whether it will bring about better candidates, or if the public will be served better, in terms of the quality of candidates. She stated she thinks the public will be served better in the fact that disclosure of campaign funds will be made in a timely fashion, whereas, now, they are not. She added that, secondly, her own experience in politics, noting she has been a candidate for state-wide office, herself, in the past, and has been involved in working on the campaigns of others, has been that, if somebody wants an office, they are going to go for it, particularly so at the state-wide level. She indicated there is a great deal of interest, and a number of candidates running. She noted her hunch is that none of the gubernatorial candidates would have backed off from running, even with the disclosure that is in this bill. She indicated they knew the office they wanted to go for, they made it very public that this is what they were doing, they did not hide it, at all, and they wanted the publicity. She stated that, as a matter of fact, some of them might find it helpful to have this kind of disclosure, which will show they have gotten quite a bit of money, and are a candidate to be reckoned with.

Senator Bengtson stated they could possibly make that available to the news media, in order to get that kind of coverage.

Q. Senator Harding indicated she has a problem with this, when they are not declared candidates. She noted that all of them, she thinks, declared in December of 1987,

or the first of January, 1988, although she does not know when they filed their petition. Senator Harding asked Representative Addy if it would not be better to amend this to fit the declared candidates, and let them start reporting, rather than someone that is thinking about it, and has not declared, openly.

A. Representative Addy responded that the only thing he would say is that this is present law, that, when they declare themselves as a candidates for state office, that is when their obligation to report begins.

Several of the committee members disagreed with Representative Addy, indicating it is when they file the declaration with the Secretary of State's office.

Representative Addy then indicated this would be an advance over the present law. He stated they are not reporting intentions, they are reporting money, and that he thinks, when they begin to accept money, they should begin to report money and, when they begin to solicit money, they should begin to report money.

Ms. Colburg asked permission of the Chairman to add another clarifying point to Senator Harding's question. She stated that, right now, the law says they are a candidate when they file their nominating petition, and that there is a window in when they do it; they can not file before a certain date, and can not file after a certain date. She indicated that, however, under current law, if they start raising significant amounts, or start raising money, prior to the time they became legally a candidate, when they file their petition, they start reporting from the day they took penny one. She noted it is not as though they are asking for something to be reported, now, that is not already demanded, under law. She added that this bill says they start reporting, that their reporting is triggered when they start behaving like a candidate, in terms of accepting money. Ms. Colburg indicated that, if the bill is amended to say only announced candidates, it would have covered all of the 16 candidates who started raising money. She noted that one of them started three years before, that Mr. Stephens announced January 1, 1987, a full calendar year before the election year, Mr. Morrison announced in March of that year, and others announced in June and July, so those candidates were publicly announced candidates a year, or more, before the election.

Q. Senator Harding asked if Ms. Colburg is saying the law says that, when they are publicly announced, they are already supposed to start making their report.

A. Ms. Colburg responded no, that current law says they only start to report when they are a candidate, under the legal definition of current law, which says when they file their petition with the Secretary of State. She indicated that, under this law, it would amend it to say they are a candidate for reporting purposes as soon as they start, in a systematic way, collecting money and making expenditures for an election.

Q. Senator Vaughn asked Ms. Colburg what is the penalty, and how does she police that. She further asked, if they start raising money and report it one month, but do not another month, what is the penalty if they do not report that every month.

A. Ms. Colburg responded there are penalties, indicating she does not know whether the previous commissioners have exercised the kinds of worst case penalties, but that she has exercised it at least once, as commissioner. She added that the worst thing that can happen is to remove their names from the ballot, that this is the most severe penalty, and she invoked it in the last campaign for two candidates, who not only did not file their reports, but they never answered letters or phone calls, noting one of them moved away. Ms. Colburg indicated there are also civil penalties that are less, and that her practice is, when candidates are late, after two or three days, she calls them, and indicates she has not received their report, and would appreciate receiving it as soon as possible.

Q. Senator Vaughn asked Mr. Cooney if he feels it would discourage candidates, ahead of time, if they have to do this.

A. Mr. Cooney responded that he does not think it will discourage candidates. He described the process he went through, before he decided to run for state-wide office. He noted the first thing they have to consider is can they raise the amount of money necessary to run a state-wide race, and indicated one of the first things any candidate does is get on the phone, and talk to anybody they run into on the streets, who they know, and let them know they are thinking about running, and need to raise money. He indicated they usually set a goal, and then

go for it. Mr. Cooney reported that, at that point in time, in his case, noting he does not remember how long it was before he filed his petition, there were several months where he had not declared the amount of money he had raised. He indicated he knew he was running for the office of Secretary of State, if he could raise the money, that it was a goal he had set. He added that he was able to raise the money, noting that if he had not been able to raise the money, the goal he had set, he is not sure it would have changed his mind. He indicated that at least he knew, at that point in time, he was going to be a candidate, and was raising money for the purpose of being a candidate, noting that is what they are talking about. Mr. Cooney stated that he does not think anyone who is going through that process would be deterred, if they had to file a report when they started that process. He indicated he thinks that, if they were going to be deterred from running for office because they had to file their reports, they would be deterred knowing they would have to file them, down the road, anyway, and that this is just opening up the process.

Mr. Cooney stated that maybe all of the committee members found out, when they were campaigning, that politicians do not always have the best reputation, and people are always accusing them of doing things that are not quite above board. He indicated that, when it comes to running for public office, campaign finances is one of the big question marks, and he thinks that is where they need to open the process, clean it up a little bit, and let the public know that they are not afraid to let them know how much money they are raising, and where that money is coming from. He further indicated that, although he is not sure he is going to run for re-election in four years, although he is assuming he probably will, he will be politically active, will probably try to raise some money, and he will report this to Ms. Colburg's office. Mr. Cooney stated he thinks this is necessary, noting that it is unfortunate that they have to have any of these campaign laws on the books, but they know they do, because people do not always volunteer this sort of information, which is why he thinks this is good, healthy legislation.

Q. Senator Hofman asked Ms. Colburg if it is true that a candidate may collect funds for two years and, when he does file, he has to report everything he took in going all the way back to the first funds he took in, what he has done with them, and what he has left.

A. Ms. Colburg responded yes, that a candidate has to report all funds taken in and expenditures made, if they are concerned with an election, at the time that person becomes a candidate, under current law. She indicated they have to close out one campaign, which is why they have to file a closing a report, but, at that time, they can say that campaign is done, and they are starting another one. She further indicated this bill says they will have to file in a more timely fashion, that they will have to file quarterly, beginning with the year in which they began soliciting money, or receiving money, and expending money. She reported that one candidate from the last campaign never was required to file a report, and that was Senator Halligan. She indicated he decided to run for Governor, but he never actually filed as a candidate, that he decided not to go forward. She further indicated that, under current law, he would have never had to file a report, but that he did so. Ms. Colburg added that most of the other candidates she has talked to would have no problems with this bill.

Q. Senator Hofman referred to sheet 3 of the Common Cause handout, and indicated the question was asked of all of the gubernatorial candidates. He pointed out that Mr. Greeley agreed this was a good idea, and that they all did, noting that he thinks that tells the committee something, too. Senator Hofman asked would the only rationale for not reporting funds like this be that they wanted to hide, from their opposition, how much money they did have in.

A. Ms. Colburg responded it could be, that the candidates would just as soon not have their opponents know what kinds of monies they have raised. She indicated that, on the other hand, it could well be that some candidates would be very much delighted to show how much they have raised, that it might frighten off the competition.

Q. Senator Bengtson referred to Secretary of State Cooney's comments regarding the public's view or perception of politics and politicians, and asked if he thinks that view would be changed by the public's viewing all of the contributions, and further asked how many people really take a look at all of that fine print, and how does it change the public's perception of the whole process. Senator Bengtson then asked is it the public, or the opponents, or somebody else, trying to pick out certain contributions to make further disclosure or published

reports. Senator Bengtson then re-phrased her question. She asked if, by putting the contributions for state-wide candidates in early, the minute they start, Mr. Cooney thinks it will help, or hinder, and what does he think it will accomplish, as far as the public goes.

A. Mr. Cooney responded he thinks, as far as the public is concerned, it will give them a little more, that it sheds a little sunshine into the process. He indicated he does not think the general public sits down and goes through those reports with a fine-toothed comb, that he does know the press does to a certain extent, that they very honestly typically focus on the races for governor. He reported that, in this race, they just mentioned a few of the contributions, or they mentioned the totals, when they reported on the race for Secretary of State. He stated that he thinks, more than anything, when running a campaign, people tend to look at politicians, noting that, when he was out on the campaign trail, they would take a certain campaign, and say "Are you doing this the same way so-and-so is doing this, have you been out there raising all this money, and are you getting a lot of money from different groups". He indicated he responded that most of his money was from individuals, and he had not received any more than $250, etc., adding that he thinks it opens up the process. He stated the general public, he thinks, gets most of their news from the media and, when the media writes a story that so and so is raising tons of money, years before a campaign, and they are not forced to disclose it, and they are not disclosing it, that is where he thinks the public's perception is tainted. He indicated that, when they read that about one campaign, or several campaigns, all of them suffer those consequences. He indicated he does not worry about the individual person sitting down and thumbing through the reports, all the time, that he would doubt very many do. He indicated he would say that, where people do get their information about how much money is being spent on the campaigns, and where that money is coming from, certainly does have an impact on them in the political world.

Q. Senator Harding indicated she is still having a problem with this. She referred to Ms. Colburg's statement that she met with the gubernatorial candidates, noting they had announced, and asked if, at that time, she would give them this information, in this law passes. She asked what about the person that has been storing up for 3 1/2 years, if Ms. Colburg will read from the newspaper that

this person is starting a campaign, and then mail them this information, if they are not aware of it. She noted that, in the instance they were talking about, that person would have been aware of the law, but asked what about someone else out in the boon-docks someplace, who decides he will run for U. S. Senator, and if Ms. Colburg will go from newspaper commitments that this is happening, and then mail the information. She asked how Ms. Colburg will monitor this.

A. Ms. Colburg responded that, as she said earlier, it is very difficult, noting she would say impossible, for someone running for state-wide office to start raising money, getting contributions, that kind of thing, without her being aware of it. She indicated that Montana is a lot of state, but it is a small community, and it is amazing the things she learns as commissioner, because of an alert press and an alert citizenry. She stated people called her and wanted to know why there were no reports on what people were raising as candidates, that they focused attention on the gubernatorial candidates, but she indicated to them that current law says they do not have to report until next year, noting they were surprised. Ms. Colburg again stated it would be very, very difficult for a person in the State of Montana to be raising money in a systematic way, noting that state-wide candidates will have to do it systematically, that they have to start making plans, and not have it come to her attention. She noted that, when it came to her attention, from whatever source, she would then be in touch with that candidate, probably by telephone, to say she has read this in the newspaper, or it has been told to her that they are doing this, and she is calling to confirm that they are, indeed, raising money for a state-wide race. She indicated that, if that person says yes, out will go the materials, just as she does now in other circumstances, when she does not get the reports from the Secretary of State's office, or when people decide they are going to do something with a ballot issue, noting that, as soon as something comes to her attention, she gets on the phone, verifies that is the case, and sends them the information. She stated she does not think they can escape them.

Q. Senator Rapp-Svrcek asked if there is a difference, then, between an announced candidate and a declared candidate and if, under present law, a declared candidate does not have to report until after the declaration deadline.

A. Ms. Colburg responded that a declared candidate and an announced candidate are the same, that somebody can declare themselves a candidate, and somebody can announce themselves a candidate, noting there is no distinction between the two. She indicated that, under current law, they do not become a candidate for reporting purposes until they have actually filed their petition with the Secretary of State, so, under current law, they can not become a candidate, officially, and legally, until January 24th, in 1988. She stated this law says, however, as soon as they start behaving significantly like a candidate, in soliciting monies, accepting monies, etc., they are behaving like a candidate, therefore, they will start reporting quarterly in those years before the election, noting that, in the election, the schedule that is currently in law would take over.

Q. Senator Bengtson indicated that, if Ms. Colburg hears rumors that someone is acting like a candidate, and has been collecting money, but not systematically, she will call and say she has heard they are collecting money, and ask if they are running as a state-wide candidate. She asked, if the person responds they are not, what would Ms. Colburg do then.

A. Ms. Colburg responded that she can only go by past history, that people running for state-wide office are not coy. She indicated that is the last thing they want to be, that they really want to get their names out there. She stated they are not going to be secretive about their interest in a state-wide office, and she does not think it will be a problem.

Q. Senator Bengtson indicated she thinks a lot of people who have been running for office play games for a long time, that they are coy about it, that they have not made up their minds, and like to play these games to get their name in the press.

A. Ms. Colburg indicated it is one thing, if they are just testing the waters by making phone calls to what they consider to be key players, to see what kind of receptivity their prospective candidacy might receive, noting that is what she did when she looked at running for state superintendent, that she did not want to jump into it until she saw if there might be a little support out there. She indicated that could go on, and that is fine, but, once the candidates decide to go for something, her familiarity with Montana politics is that they make

themselves known, they want to be known, and they want to see what kind of reception they get.

Q. Senator Bengtson asked how much money is she talking about, noting she did not know there was that much money out there.

A. Ms. Colburg responded it is very significant, and the candidates who would have been affected by this in the 88 elections are supportive of this measure to disclose, in a more timely fashion, their money raising.

Q. Senator Anderson asked Ms. Colburg, noting she mentioned people running for state-wide candidates, how it would affect someone running for U. S. Senator, or if it will apply.

A. Ms. Colburg responded that candidates for U. S. Senator for the U. S. Congress fall under the federal election commission laws, rather than Montana laws, noting that those people have to report all the time, that they have on-going reporting. She indicated that, if Senator Burns starts receiving money right now for a re-election bid six years hence, under the FEC regulations, he is reporting, right now, quarterly.

Q. Senator Bengtson asked what the difference is between a pledge for money, and actual contributions. She asked, if she went on a state-wide basis and accepted a pledge, would she have to report that.

A. Ms. Colburg responded that a pledge is not money, that, unless she has the money in hand, it is not a contribution.

Mr. Cooney stated that Senator Bengtson, if she were a candidate for state-wide office, would find one thing out real fast, which is that she can not spend pledges.

Q. Senator Bengtson indicated they do spend their own money, on the basis of a pledge coming in.

A. Mr. Cooney responded that he did not.

Q. Chairman Farrell referred to page 7, line 16, regarding referendums, and asked if this goes back to the bottle bill, and the war as to who was raising money for it, and will this clarify that problem on the referendum. He

further asked Ms. Colburg how that will work, and asked her to explain that.

A. Ms. Colburg responded that it would not relate to the bottle bill, at all, noting there was one major distinction. She indicated that was an initiative, and this refers only to referendums, and that the issues surrounding the bottle bill, in part, had to do with money, but had more to do with were they reporting in a timely way, and had they filed the documents. She stated this would be limited strictly to referendums, not initiatives. Ms. Colburg indicated there are two kinds of referendums. She noted the committee members, as legislators, are familiar with one, in which they pass an act in the legislature that is referred to the people for a vote. She indicated the other kind is the people, by petition, wish to vote on an act that the legislature has passed. She noted this was inserted in the bill because, in keeping with state-wide candidates, and knowing where money is coming in, in a timely way, they felt it was also important to know this from the referendum committees. She gave the example of the legislators passing an issue that will be on the ballot in 1990, which is a volatile issue. She indicated she would bet the people will start gearing for an action in 1990, as soon as this legislature adjourns, particularly something as volatile as the sales tax issue. She added she thinks the people of Montana are entitled to know what kinds of monies are coming in for both the proponents, and the opponents of that referendum, in a timely fashion.

Q. Senator Rapp-Svrcek asked Ms. Colburg why they did not subject the initiatives to this disclosure, as well.

A. Ms. Colburg responded that initiatives seem to be a horse of another shade. She indicated they do not know them, in advance, the way they do referendums and that, typically, initiatives do not begin until an election year. She indicated that, in the last campaign, none of the initiative processes began until the election year, itself, noting the election year has a schedule. She pointed out that this bill is talking about those things that would begin preceding the election year, such as the 1990 example that she gave.

Closing by Sponsor:

Representative Addy directed the committee's attention to page 7, the language that Chairman Farrell was referring to in his

question. He indicated that was amended in the House committee because the bottle bill people came in and requested that insertion. He further indicated they have fine-tuned the bill, that they have listened to those concerns, and responded to them, noting that, for the reasons Commissioner Colburg gave, he thinks they have responded appropriately, and made a meaningful distinction in the law.

Representative Addy apologized to Senator Harding for not understanding her question, indicating he has never announced for office until he filed his declaration for nomination, that it all kind of happens all on the same date for him. He stated the most he has ever spent on a campaign, when he felt he was targeted on a state-wide basis, was a little over $10,000, noting he can remember when state-wide candidates not running for Governor began to spend $100,000, which is since his return to Montana from the Army. He indicated that was a phenomenal event, at that time, but it is no longer the exception. He then indicated he was making phone calls to the same people that Mr. Cooney was, at the same time, regarding the same subject, and, until they get meaningful pledges that are more, considerably more, than a significant percentage of what they think their budget is going to be, it is real foolish, unless they have vast private resources, to throw themselves into the path of that speeding locomotive, because state-wide office is the big leagues, and state-wide office is what they are talking about in this bill, that they are not talking about people running for a legislative seat. He noted that the editorial interest that Mr. Cooney reported during his campaign is still alive and well, and that, since this bill passed the House, the Montana Standard and the Independent Record have editorialized, noting it is the best press he ever got, that he thought this was just a little housekeeping bill, and ended up with good press. He stated the people do expect this, and he thinks they believe this is only right, adding that the stakes are higher. He referred to the Governor's race, and reported that Governor Schwinden spent about $.25 million in 1984, and the general election candidates, in 1988, spent closer to $1 million, noting the stakes have escalated by multiples, that they have not just accumulated, they have multiplied.

Representative Addy indicated that, if a candidate wanted to determine what their strength was, before they had to report anything, they might do what he did, which was to make phone calls. He further indicated, if they wanted to solicit, they have three months to see what the returns really were, on that solicitation letter, before they were required to file, and then they would never tell a Senate committee that they had

done that, and then decided not to run for office. He stated he thinks this does not force people to become a public figure before they are ready, because they can not be coy with people they are asking for money, that it has to be shoulder to shoulder and eye to eye, and, sometimes, toe to toe, if they really expect them to put any credibility in their word, noting that, by credibility, he means by sitting down and writing the check to indicate they have a sense of credibility from the payee.

Representative Addy asked, if this law does not pass, who is penalized. He indicated the candidates that are open are penalized, and that it is a tactical disadvantage to those candidates who are willing to share with the public what the source of their support is. He indicated we discourage openness, he thinks, under the stated laws. He further indicated that, if one candidate is not reporting, and other candidates are seeking the same office, they are putting themselves at a tactical disadvantage by revealing where their source comes from. He stated he does not think they should be a premium to people who are non-candid, noting that, after all, they are a candidate, and we're saying candidates should not be candid. He added he guesses they should just be dates.

Representative Addy stated that, if this bill does not pass, he thinks all those horrible things that people think will only be confirmed.

Chairman Farrell announced the hearing on HB407 as closed.

DISPOSITION OF HB 407

Discussion:

Senator Hofman offered a motion that HB407 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB407 be concurred in.

HEARING ON HB 387

Presentation and Opening Statement by Sponsor:

Representative John Mercer reported he got the idea for this bill while driving along the shores of Flathead Lake. He

SENATE STANDING COMMITTEE REPORT

March 15, 1999

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 407 (third reading copy -- blue), respectfully report that HB 407 be concurred in.

Sponsor: Eddy (Rapp-Svrcek)

BE CONCURRED IN

Signed: _____
William E. Farrell, Chairman

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE: March 13, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Margaret Sigurd	LWVMT	HB407	X	
D. Pearson	Common Cause	HB 407	X	
Mike Cooney	Sec of State	HB407	✓	
Robert Vaughn	Self	HB387	✓	
Lonnie Olson	Board of Barbers	HB222	✓	
Connie L. Olson	Board of OT Licensure	HB239	✓	
Kelly Addy	HD 94	HB407	X	
Russ Brown	MT. Dem. Party	HB407	X	
Dolores Colburg	Commissioner of Political Practices	HB 407	X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on February 2, 1989, at 9:00 a.m.

ROLL CALL

Members Present: All present, except:

Members Excused: Reps. Moore and Compton

Members Absent: Rep. O'Connell

Staff Present: Judy Burggraff, Secretary; Lois Menzies, Staff Researcher

Announcements/Discussion: Chairman Brown said that we would take executive action early next week on HB 428.

HEARING ON HB 412

Presentation and Opening Statement by Sponsor:

Rep. Dorothy M. Bradley, House District No. 79, Bozeman, introduced the bill. Current law provides that the Department of Administration is the custodian of all state property in the state capitol area. This bill, introduced by request of the Legislative Audit Committee, defines the state capitol area as the "geographic area within a 10-mile radius of the state capitol." The bill also provides that the Department must provide or approve all custodial, maintenance and security work done on state-owned or leased buildings in the state capitol area.

Rep. Bradley said that the bill clarifies the Department of Administration's custodial duties in the capitol area and defines the area because it was not previously defined. The statutes were not clear as sometimes this area was referred to as the "capitol complex" and sometimes as the "Helena area." Sometimes the Department was responsible for maintenance of one building but had not responsibility for the building located next to it.

Testifying Proponents and Who They Represent: None

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. CAMPBELL asked Rep. Bradley if the 10-mile radius

Proponent Testimony:

JIM JENSEN, a former member of the House of Representatives, said there is only one problem with the bill. The Senate term should be two years.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. DEBRUYCKER asked if the bill could be made retroactive. Rep. Mercer said "no." REP. SQUIRES asked Rep. Mercer if he had polled the people in his district as to their opinion of the bill. Rep. Mercer said he had just discussed this over coffee. He said it seems that the people's concerns are that some serve too long in government; not over how long their terms are but that they are there for 20 to 30 years. Most people were favorable. REP. WESTLAKE asked Rep. Mercer if this would turn over the entire Legislature every four years; and if so, had he considered the possibility, if this were to pass, that half of the Legislature would turn over every two years. Rep. Mercer said that if the bill passed, that every two years half of the Senate would change and there would always be that stability; every four years the entire House would change. That would preserve the concept of pulling the whole group out and putting a whole new group in.

Closing by Sponsor: None

HEARING ON HB 407

Presentation and Opening Statement by Sponsor:

Rep. Kelly Addy, House District 94, Billings, introduced the bill by the request of the Commissioner of Political Practices. The bill clarifies the definition of "candidate" for the purposes of the campaign practices and finance laws. In addition, the bill requires candidates for a statewide office and political committees organized to support or oppose a statewide candidate or ballot issue to file a quarterly report with the Commissioner of Political Practices beginning with the calendar quarter in which funds are received or expended during the year(s) before the election year.

Rep. Addy said that the bill is proposed to close a "loophole." He thinks that the "loophole" was a genuine oversight and was never intended to be a part of the statute. The way our reporting requirements work is when a candidate declares that he or she is a candidate for office, that is when they must start reporting contributions received and expenditures made. Rep. Addy asked what

happens when a candidate decides to run for office but makes no public pronouncement and simply begins to solicit and receive campaign contributions. What happens when well-meaning friends decide to run a candidate for office and begin to raise money, and the candidate never objects? What is the difference between that and someone who has made a pronouncement that they are going to seek that office? He said that the difference is that once you say it you have to report it. Rep. Addy said that this is the Pearl Harbor loophole as they can amass a huge war chest; they can print all the literature in the world; they can make all of the advertising buys they want and at the last minute say they're a candidate.

Rep. Addy said that when campaigns are costing the amount of money they are now, we should have proper filing requirements so the public knows when somebody is in fact a candidate.

Testifying Proponents and Who They Represent:

Mike Cooney, Secretary of State

Dolores Colburg, Commissioner of Political Practices

C. B. Pearson, Executive Director, Common Cause

Don Judge, Montana State AFL-CIO

Eric Feaver, Montana Education Association

Proponent Testimony:

MIKE COONEY said that he supports HB 407. This bill would improve the campaign financing disclosure laws and make the process more open. It closes the loopholes that enable candidates from making financial disclosure until just prior to the primary election. In an election cycle, candidates for public office are not required to file a campaign financial statement until March before the primary. Several candidates begin to run for public office months or years prior to that date. Under current law, they are able to collect many campaign contributions without disclosing the names of contributors or the amount of the contribution until many months later. "A major loophole exists in the campaign practices law which permits this to happen. Montanans deserve to know how campaigns are being supported. This bill is necessary for good government."

DOLORES COLBURG said she agreed with Rep. Addy's and Mike Cooney's testimony and said she would like to add the following: (1) We have also included a further definition of a candidate as being a person "holding office, but who is subject to a recall election." This has been added so those unfortunate souls may mount a campaign against the recall

effort. Under current law, they would have no mechanism for doing that. (2) In the last election cycle, 16 candidates would have been affected by this bill. The earliest date that a candidate started raising money was in June, 1985; there were two others that began on January 1, 1987, a full year before the 1988 elections. Another one began in March; several more in mid-1987. There were a number of candidates who were organized, raising and expending money and not subject to any reporting requirements until the 1988 election-year schedule was triggered. Ms. Colburg said that this bill does not impose on them any reporting they had not been doing already; this bill just requires more timely reporting.

C. B. PEARSON presented written testimony (Exhibit 1).

DON JUDGE said that the Montana State AFL-CIO reports accurately as much information on political campaigns as any organization in the state. He said that until this last year they had elected not to give "in-kind contributions" and "this year we varied from that a little. We gave an airplane ride to two state-wide candidates, and we reported that to the campaign commissioners' office and included that in the limit that was applicable to the limits of the particular candidates." Mr. Judge said we think this is one of the biggest loopholes in the law. His group supports the legislation, but they would like to sit down with Commissioner Colburg and other proponents and work out their concerns about how the bill would deal with gathering together with other people (i.e. If they were to gather to discuss if they wanted to work on an initiative).

ERIC FEAVER said the Montana Education Association (MEA) supports HB 407. He said that MEA does have a political action committee sometimes referred to as MEA PAC, which is made up entirely of the voluntary contributions of the members. MEA PAC contributes to endorsed candidates and gives only money, no "in-kind contributions" of any sort.

Testifying Opponents and Who They Represent:

Roger Tippy, Executive Secretary, Beer and Wine Wholesalers' Association

Opponent Testimony:

ROGER TIPPY presented written testimony (Exhibit 2).

Questions From Committee Members:

REP. PHILLIPS asked Eric Feaver if some of the associations wouldn't have to be reporting all of the time as they print newsletters and reports on how candidates vote. Mr. Feaver said he was not concerned about reporting all of the time. He said that the legislative process is constant, and they

do inform their members all the time of what is going on.

REP. WESTLAKE asked Dolores Colburg if the bill will increase the demand on the Political Practices Office. If so, will this make a bigger work load? Ms. Colburg said it will but that the reports will come in prior to the election year when things are really hectic in the office. She said she thought it could be managed easily with the current staff and resources.

REP. SQUIRES asked Ms. Colburg if she could answer Rep. Phillips' question. Ms. Colburg says that there is a section of law that clarifies the reference that Rep. Phillips was making. It is in section 13-1-101(7), which provides that an expenditure does not include "the cost of any communication by the membership organization or corporation to its members, stockholders or employees so long as that organization is not a primary political committee." Therefore, the MEA, the Chamber of Commerce, the AFL-CIO, Montana Taxpayers Association, by communicating with their membership reporting about the merits of various legislative proposals, and so forth, is not by definition a political contribution or expenditure.

CHAIRMAN BROWN asked Rep. Addy if he was intending to address the concern raised by Roger Tippy. Rep. Addy said he is sensitive to the issue raised by Mr. Tippy. He said that aspect of the bill was not intended to be a problem. He said he would work with Mr. Judge and Mr. Tippy to try and resolve the issues.

HEARING ON HB 428

Presentation and Opening Statement by Sponsor:

Rep. Tom Hannah, House District 86, Yellowstone County, Billings, introduced the bill. This bill abolishes the Office of the Commissioner of Campaign Practices. Most of the Commissioner's duties concerning lobbyist disclosure and campaign practices and finances are transferred to the Secretary of State. In some case, such as when there would be a conflict of interest for the Secretary of State to carry out provisions concerning campaign practices or finances, the Attorney General is required to execute the laws. The bill also changes dates for filing campaign finance reports. In addition, it repeals the limitation on aggregate contributions by an individual or independent committee to a candidate and the limitation on the amount of contributions that a Senator or Representative may receive from all political committees contributing to his or her campaign.

Rep. Hannah said "my intent is not to be political on this thing," but it is "an effort to bring campaign financing

COMMON CAUSE/MONTANA

P.O. Box 623
Helena, Montana 59624 (406) 442-9251

EXHIBIT 1
DATE 2-02-89
HB 407
1 of 3

TESTIMONY OF COMMON CAUSE IN SUPPORT OF

HOUSE BILL 407

2 FEBRUARY 1989

Madame Chairwoman and members of the House State Administration Committee, for the record, my name is C.B. Pearson, Executive Director of Common Cause in Montana. I am here today on behalf the members of Common Cause.

Common Cause would like to go on record in support of House Bill 407.

In our opinion HB 407 is a needed reform. The nature of campaigns for statewide office have changed over the last few years. Campaigns have gotten more complex and are beginning much earlier.

In our opinion the current laws are inadequate.

We need to have a law that says, "when you look like a candidate and when you act like a candidate, then you are a candidate." The current law is not clear on when you are a candidate.

We also need to have a law that requires earlier and more frequent reporting by candidates for statewide office.

During early 1988, Common Cause conducted a survey of the six Democratic and three Republican candidates for Governor. The questionnaire asked the candidates 15 questions. One of those questions concerned increasing the reporting requirements for statewide political campaigns. Eight of the candidates stated they would support efforts to increase the reporting requirements for the increasingly lengthy statewide political campaigns.

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Candidate Mike Halligan stated that "monthly reporting should be positively built into the reporting process from the date a candidate announces for statewide office." For you information, I have enclosed a copy of the survey at the end of this testimony.

It would be Common Cause's position that the need is present for such reforms and that there is support for such reforms.

10. The 1988 campaign for governor is already in full swing with the election almost a year away. Some candidates have been declared for almost a year. Under the current law, candidates are not required to file any campaign reports until at least March of the election year. Would you support efforts to require campaign reporting to begin at an earlier date, to keep pace with (and keep the public better informed of) increasingly lengthy campaigns for office.

Greely
Yes

Halligan
Yes: monthly reporting should be positively built into the reporting process from the date the candidate announces for statewide office.

Judge
Yes

Morrison
Yes

Neuman
Yes

Thornton
Yes: I would even go as far to say that "monetary pledges" are secured and/or sought after continuously from election to election! Financial revelations accountability is essential!

Stephens
Uncommitted: I am inclined to support a reasonable approach to informing the public of the financing of early campaigns.

Waltermire
Yes

Winslow
Yes

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HB 407, as introduced, would require a primary political committee to file reports of contributions or expenditures to support or oppose a ballot issue, during the year or years before the election year in which the issue is "expected to" be on the ballot. In other words, if a vote on a sales tax is expected to be on the 1990 ballot and a group starts raising money for or against it this year, they would have to report every quarter this year. That's what HB 407 seems to say. But the bill has deeper implications.

A ruling from Commissioner Colburg last September 7 held that organizations who sent paid staff people to meetings to discuss a potential initiative, or who paid for economic studies of matters which might come up during a possible initiative campaign, were making reportable expenditures. The initiative was the bottle bill, which became a ballot issue on May 13 when the Secretary of State approved the petition form. The Commissioner ruled that meetings of various association representatives from the beverage industries held in February and March, and a recycling survey contracted for by one of the associations in April, were in-kind "expenditures" of services under 13-1-101(7) and that the participants should have registered as a committee within 5 days after the May 13 petition approval.

If people who meet to discuss a possible or potential initiative in 1990 are now to report their in-kind expenditures this summer or fall, they evidently must formally organize a political committee and file a statement of organization (Form C-2) months before the initiative petition is even written up and filed for approval as to form.

An association such as the Montana Chamber of Commerce or the AFL-CIO does not have to set up a separate committee to discuss a potential initiative. However, if they do not, they run the risk of having their own books inspected by their opposition. Sec. 13-37-209 grants this right of inspection to the treasurer of the opposition committee; the books of the Committee Against Forced Deposits were inspected about once a week by the treasurer of one of the pro-bottle bill committees.

Once you do file a primary committee to report your in-kind expenditures on something you expect to be an initiative next year, you're all right until your opposition challenges the name you choose to call your committee. Then the Commissioner will review your sources of support or input and decide how many of them, and perhaps in what order, need to be mentioned in your committee's name.

EXHIBIT
DATE 2-02-89
HB 428

SECRETARY OF STATE
STATE OF MONTANA

Mike Cooney
Secretary of State

Montana State Capitol
Helena, Montana 59620

Testimony in opposition to HB 428
Presented by Secretary of State Mike Cooney
Before the House State Administration Committee
February 2, 1989

Madam Chairman members of the House State Administration Committee, for the record I am Secretary of State Mike Cooney. I am here today to testify against HB 428. I have spoken with Representative Hannah about this legislation and I believe that he is sincere in his efforts to improve campaign practice laws. However, I disagree with him about this legislation and will outline for you the reasons why.

The first and foremost reason for my opposition to this legislation is that it would take the enforcement functions of the enforcement of campaign practice regulations from a nonpartisan independent office and place the duties in a partisan elected office. Specifically it would take the enforcement of campaign finance reporting and lobbyist disclosure from the commissioner of political practices and place those duties in the Secretary of States office. I am strongly opposed to this move. These duties do not belong in a partisan office. The decisions made to enforce those

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laws must be beyond the suspicion of being politically motivated.

Keep in mind that if I did receive those duties I would act as fair and impartial as possible. But I do not think this bill is prudent and I certainly do not ask for these duties in the Secretary of State's office.

HB 428 not only causes the mischief I have identified but also it appears to gut the campaign practices laws and would return Montana to the pre-Watergate era.

My specific concerns are as follows:

1. This legislation would remove the limits placed on the amounts a candidate could receive from an individual or political action committee. This move would be devastating. You would see an incredible increase in the amount spent on campaigns if there were no limit placed on the amount of individual contributions. A "New York Times" article published December 27 1988, indicated the trend is toward more contributions from political action committees campaigns. This is particularly true in states where no limits are place on campaign contributions. No Montanan

has told me that they want wide open spending on campaigns. If anything they want more restrictions and less campaigning.

2. Unlimited contributions would permit political action committees to have greater influence on the electoral process. Political action committees have greater resources to draw from and thereby can significantly increase their contributions if no limit existed. Obviously the more money a PAC can contribute to an election the more it can influence the outcome of the election.

3. This bill would repeal the statute which requires people to make contribution in their own name. Not only could a person or PAC give thousands of dollars to a campaign but also they could hide the contribution by having others make the contribution for them. Although part of the short title of this bill is "full disclosure act", the content of the legislation has the opposite effect.

4. This bill would create a reporting nightmare. The provision to require the reporting of all campaign

contributions regardless of size, would create campaign reports with hundreds and perhaps thousands of names on them. At stake here are the individual contributions of $75.00 or less in a statewide race. These are the contributions of working Montanans interested in participating in our political process. These contributions are not, in my opinion, a danger to the democratic process that needs to be further regulated. To mandate reporting of these small contributions would complicate the reporting process without any marked impact on improper campaign practices.

Montana has a colorful political history. We all know of the incredible elections that were bought and paid for by the copper kings. Although it is interesting to read these stories in the history books, we should not prepare the stage for history to repeat itself. Now is not the time to return to the dark ages of campaign practices. HB 428 would return Montana to the days before Watergate. We do not want the days of Tamanny Hall revisited. For these reasons I urge you to recommend that HB 428 do not pass.

Madam Chairman and members of the committee, I would like to

DATE 2-02-89
ID 428

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thank you for allowing me to testify before you today on this important issue, and I will be available for questions.

Thank You.

EXHIBIT 4
DATE 2-02-89
HB 428

COMMISSIONER OF POLITICAL PRACTICES

STATE OF MONTANA

DOLORES COLBURG
COMMISSIONER
TELEPHONE (406) 444-2942

CAPITOL STATION
1205 EAST EIGHTH AVENUE
HELENA, MONTANA 59620-2401

Testimony on House Bill 428

Madam Chairwoman and members of the House State Administration Committee.

For the record, I am Dolores Colburg, Commissioner of Political Practices. I appear today in opposition to HB 428.

This bill is a giant step in the wrong direction. While trends nationally and in other states are toward strenghtening campaign finance laws and setting stricter limitations on contributions, HB 428--if enacted--would return us to a pre-Watergate state of affairs. The bill removes all contribution limitations--both from individuals and political committees. Further, HB 428 would repeal the statute that prohibits the laundering of money; thus, fat cats not only could bankroll campaigns, but they would be permitted to keep their identities a secret.

Currently, our campaign finance and practice laws are among the best in the nation. Indeed, Montana is the only state to have a limitation on political action committee (PAC) contributions which, as you know, are applicable to legislative races. We are the only state with a "truth in labeling" law for political committees.

One of the strengths, too, of Montana's campaign finance and practice laws is the independent character of the office of the Commissioner of Political Practices. Nominated by the bi-partisan leadership of the legislature and appointed by the governor, the commissioner is appointed to a single 6 year term and is prohibited from running for elective office for 5 years after leaving the office. Thus, the commissioner may act without fear of political reprisal. But HB 428 would abolish the office of Commissioner of Political Practices and its independent authority and transfer most of the agency's functions to the Secretary of State. Montanans have expressed their dissatisfaction with similar moves in the past to abolish the office and to weaken our campaign laws.

There is no fiscal note yet on the bill; but, in talking with the Secretary of State, I judge that any dollar savings would be minimal, if any. However, the cost to the integrity of Montana's campaign finance and practice operations could be enormous.

I urge the committee to see this bill for what it is--a step backward into darkness--and to vote "do not pass" on HB 428. Thank you.

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 407 DATE February 2, 1989

SPONSOR REP. ADDY

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
C. B. PEARSON	COMMON CAUSE	✓	
Roger Tippy	MBCWA		✓
MIKE COONEY	Secretary of State	✓	
DON JUDGE	MT STATE AFL-CIO	Amend ✓	
Dolores Colburg	Commissioner of Political Practices	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on February 7, 1989, at 9:00 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Lois Menzies, Staff Researcher

Announcements/Discussion: Chairman Brown said that Rep. Cobb had asked a few days ago to have HB 353 rescheduled for Thursday, February 9.

REP. PHILLIPS moved that the Committee sponsor a bill that would allow the United Veterans' Council to sell plots at the V. A. Cemetery at Fort Harrison and use the money to bury indigent war veterans. Rep. Phillips said "Everybody is behind it." The United Veterans' Council wants to sell burial plots and vaults at the going rate, then use the proceeds for burying veterans whose families cannot afford to buy plots in the V. A. Cemetery. The motion CARRIED unanimously.

HEARING ON HJR 16

Presentation and Opening Statement by Sponsor: Rep. Tom Hannah, House District 86, Yellowstone County, introduced the resolution. This resolution requests the Legislative Audit Committee to conduct a study to determine the necessity of an umbrella board to license and regulate alternative health care providers, such as acupuncturists, naturopaths, rolfers, massage therapists and midwives. The Committee must report its findings and recommendations to the 52nd Legislature.

Rep. Hannah said there has been considerable interest over the years in alternative health care providers. These groups are interested in licensing and state sanction saying that they have approval to operate. Last session the Sunrise Law came into effect, which says that the Legislature was getting tired of the different service providers areas requesting a stamp of approval of their profession. The amendments (Exhibit 1), that were presented

DISPOSITION OF HB 357

Motion: Rep. Cocchiarella moved HB 357 DO NOT PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED. The vote 16 - 2 (see roll call vote).

DISPOSITION OF HB 428

Hearing Date: February 2, 1989

Motion: Rep. Cocchiarella moved DO NOT PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: A roll call vote was taken. The motion FAILED 16 - 2.

DISPOSITION OF HB 171

Hearing Date: January 31, 1989

Motion: Rep. Whalen moved HB 171 DO PASS.

Amendments, Discussion, and Votes: Rep. Whalen presented amendments to the committee (Exhibit 13). Rep. Whalen moved the amendments. REP. WHALEN said that the amendments addressed the concern that was raised by the opponents that if in the last 15 days prior to an election, something would happen to change the entire course of the election, there would be an opportunity within the last 15 days to write in someone else's name and have them counted. The amendment requires that in the last 15 days of the election someone either dies, withdraws from the election or is charged with a felony offense, then a write-in candidate could come in. This candidate would still have to fill out the declaration of intent, and he or she would have to do it within 48 hours of the election to have his or her votes counted by the clerks and recorders.

The motion CARRIED unanimously.

Recommendation and Vote: Rep. Whalen moved HB 171 AS AMENDED DO PASS. The motion CARRIED unanimously.

DISPOSITION OF 407

Hearing Date: February 2, 1989

Motion: Rep. Davis moved HB 407 DO PASS.

Amendments, Discussion, and Votes: Amendments were distributed (Exhibit 14). Rep. Davis moved the amendments. Lois Menzies explained the amendments were developed by Dolores Colburg in conjunction with Roger Tippy and Don Judge, who felt uncomfortable with requiring all committees organized around ballot issues to make a quarterly filing. The amendment would require only political committees organized for referenda submitted by the Legislature or the people to meet the filing requirement. The amendment narrows the scope of those required to make the filing.
REP. NELSON said it is his understanding that if the Legislature submits a measure to the people it is referred to as a referendum. If the people come up with something, it is an initiative. The people do not submit referenda. Lois Menzies said that voters can also submit a referenda. They have six months after the Legislature adjourns to file a referendum petition. There are actually two types of referenda: those referred by the Legislature. Any law that the Legislature enacts the people approve or reject by referendum.

Garth Jacobson, Chief Counsel, Secretary of State's Office, said that Article III of the Montana Constitution says that when the electorate wants to repeal an act that the Legislature has enacted they have six months in which to do that; if they want to suspend it, they must have 15 percent of the voters.

REP. MOORE asked if an initiative is to enact a law and a referendum is to react to the law, what are we talking to in this bill, referendums or initiatives? Lois Menzies said that the filing requirement would only apply to referendum, whether it be by the people or by the Legislature. It does not include committees organized on behalf of issues associated with initiatives.

The motion on the amendments to HB 407 CARRIED.

Recommendation and Vote: Rep. Davis moved the HB 407 AS AMENDED DO PASS. A roll call vote was taken. The motion CARRIED. The vote 10 - 8 (see roll call vote sheet).

DISPOSITION OF HB 365

Hearing Date: February 1, 1989

Motion: Rep. Spring moved HB 365 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: None

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date February 7, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore	✓		
Rep. Angela Russell	✓		
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

2:20 pm
2/09/89
ja

STANDING COMMITTEE REPORT

February 7, 1989

Mr. Speaker: We, the committee on State Administration report that HOUSE BILL 407 (first reading copy -- white) do pass as amended.

Signed: Jan Brown
Jan Brown, Chairman

And, that such amendments read:

1. Title, line 7.
Following: "AND"
Insert: "CERTAIN"

2. Page 7, line 14.
Following: "year"
Insert: "that: (i)"

3. Page 7, line 15.
Following: the first "ballot"
Insert: ";"
Following: "or"
Insert: "(ii)"
Following: "issue"
Insert: "subject to a referendum submitted by the legislature or the people in or"

ROLL CALL VOTE

STATE ADMINISTRATION COMMITTEE

DATE Feb. 7, 1985 BILL NO. HB 407 NUMBER 1

NAME	AYE	NAY
Jan Brown	✓	
Helen O'Connell	✓	
Vicki Cocchiarella	✓	
Ervin Davis	✓	
Floyd "Bob" Gervais	✓	
Janet Moore	✓	
Angela Russell	✓	
Carolyn Squires	✓	
Vernon Westlake	✓	
Timothy Whalen	✓	
Bud Campbell		✓
Duane Compton		✓
Roger DeBruycker		✓
Harriet Hayne		✓
Richard Nelson		✓
John Phillips		✓
Rande Roth		✓
Wilbur Spring, Jr.		✓

TALLY 10 8

Judy Burgraff
Secretary

Jan Brown
Chairman

MOTION: Do amended Do Pass

Form CS-31
Rev. 1985

HOUSE BILL NO. 407

INTRODUCED BY ADDY, VINCENT

BY REQUEST OF THE COMMISSIONER OF POLITICAL PRACTICES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITION OF "CANDIDATE"; REQUIRING REPORTS FROM STATEWIDE CANDIDATES AND CERTAIN POLITICAL COMMITTEES IN YEARS PRIOR TO AN ELECTION YEAR; AND AMENDING SECTIONS 13-1-101 AND 13-37-226, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(2) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination or appointment as a candidate for public office as required by law;

(b) for the purposes of chapters 35, 36, or 37, an individual who has ~~publicly-announced-his-intention-to-seek nomination-or-election-to-public-office-by-write-in-vote-and who-has-received-a-contribution-or-made--an--expenditure--or has--given--an--authorization-to-another-person-to-receive-a contribution-or-make--an--expenditure--for--the--purpose--of supporting-his-nomination-or-election:~~ solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on his behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; and

(c) an officeholder who is the subject of a recall election.

(3) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate

Montana Legislative Council

REFERENCE BILL

or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residence for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees, so long as such organization is not a primary political committee; or

(iv) filing fees paid by the candidate.

(4) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time and/or purpose.

(5) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(6) "Elector" means an individual qualified and

registered to vote under state law.

(7) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (3);

(ii) payments by a candidate for his filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for himself and his family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees, so long as such organization is not a primary political committee.

(8) "General election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III,

section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1).

(9) "Individual" means a human being.

(10) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35, 36, or 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes an "issue" upon approval by the secretary of state of the form of the petition or referral.

(11) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (2) of this section.

(12) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee

organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(13) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(14) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for such nominations is set on the same date for all similar subdivisions in the state.

(15) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(16) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(17) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in

conjunction with a statutorily scheduled election.

(18) "Voting machine or device" means any equipment used to record, tabulate, or in any manner process the vote of an elector."

Section 2. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees which are specifically organized to support or oppose a particular statewide candidate or issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year THAT:

(I) the candidate expects to be on the ballot; or

(II) an issue SUBJECT TO A REFERENDUM SUBMITTED BY THE LEGISLATURE OR THE PEOPLE IS OR is expected to be on the ballot;

~~(a)~~(b) on the 10th day of March and September in each year that an election is to be held and on the 15th and 5th days next preceding the date on which an election is held and within 24 hours after receiving a contribution of $500 or more if received between the 10th day before and the day of the election;

~~(b)~~(c) not more than 20 days after the date of the

election; and

~~(c)~~(d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Candidates for a state district office, including but not limited to candidates for the legislature, public service commission, or district court judge, and political committees which are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

(a) on the 10th day next preceding the date on which an election is held and within 24 hours after receiving a contribution of $100 or more if received between the 15th day before and the day of the election;

(b) not more than 20 days after the date of the election; and

(c) whenever a candidate or political committee files his or its closing report as specified in 13-37-228(3).

(3) Candidates for any other public office and political committees which are specifically organized to support or oppose a particular local issue shall be required to file the reports specified in subsection (2) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding

the filing fee paid by the candidate, exceeds $500, except as provided in 13-37-206.

(4) For the purposes of this subsection, a committee which is not specifically organized to support or oppose a particular candidate or ballot issue and which receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file reports:

(a) on the 10th day next preceding the date of an election in which it participates by making an expenditure;

(b) not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a closing report at the close of each calendar year, on a date to be prescribed by the commissioner.

(5) The commissioner may promulgate rules regarding the extent to which organizations that are not primary political committees but are incidental political committees shall report their politically related activities in accordance with this chapter.

(6) All reports required by this section shall be complete as of the fifth day before the date of filing as specified in 13-37-225(2) and subsections (1) through (5) of this section."

NEW SECTION. **Section 3.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-